



limitation period set forth in 20 C.F.R. § 10.607(a). The Board concluded that the Office did not determine his entitlement to a schedule award for his claimed increased hearing loss and, therefore, the case must be remanded for further development. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.<sup>1</sup>

The Board notes that there was medical development which occurred prior to the issuance of the Board's July 15, 2004 decision, but subsequent to the Office's schedule award decision of June 15, 1993 which is pertinent to the current claim before the Board. In a decision dated June 15, 1993, the Office granted a schedule award for a 19 percent impairment due to the accepted binaural hearing loss. The Office based its June 15, 1993 schedule award on a May 5, 1993 report of an Office medical adviser who reviewed the January 12, 1993 audiogram ordered by Dr. Wesley W.O. Krueger, a Board-certified otolaryngologist, and calculated that appellant had a 19 percent binaural hearing loss according to the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5<sup>th</sup> ed. 2001).<sup>2</sup> The Office medical adviser determined that his binaural hearing loss was 19 percent.<sup>3</sup>

Thereafter, appellant submitted reports from Dr. Krueger and in his report dated October 28, 2002, he stated that appellant's hearing loss had increased since his retirement and recommended that he wear a hearing aid. On January 6, 2003 he indicated that appellant had evidence of benign positional vertigo and progressive noise-induced hearing impairment, for which he had recommended binaural amplification. In a January 20, 2003 report, Dr. Krueger

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<sup>1</sup> Docket No. 04-504 (issued July 15, 2004).

<sup>2</sup> Testing for the right ear at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 30, 35, 35 and 75 decibels respectively for a total of 175 decibels. These losses were divided by 4 for an average hearing loss of 43.75 decibels. The average was reduced by 25 decibels (the first 25 decibels are deducted, as explained above) to equal 18.75 decibels, which was multiplied by 1.5 to arrive at a 28.1 percent loss for the right ear. Testing for the left ear at the same frequencies revealed decibel losses of 20, 25, 45 and 55 decibels, respectively for a total of 145 decibels. These losses were divided by 4 for an average hearing loss of 36.25 decibels. The average was reduced by 25 decibels (as explained above) to equal 11.25 decibels, which was multiplied by 1.5 to arrive at a 16.9 percent loss for the left ear. The Office medical adviser then multiplied the 16.9 percent loss in the right ear by 5, added it to the 28.10 percent loss in the left ear and divided the sum by 6 to calculate appellant's binaural hearing loss at 19 percent.

<sup>3</sup> On January 17, 2001 appellant filed a claim for an additional schedule award and the Office referred him to Dr. Alan Dinesman for otologic examination and audiological evaluation. He determined that appellant sustained a 35.5 percent binaural hearing impairment and noted that he experienced progressive hearing loss in excess of presbycusis which has worsened since his last evaluation in 1992 and 1993, in spite of retiring in 1989. Dr. R. Meador, a Board-certified otolaryngologist and Office medical adviser, in a report dated October 4, 2001, reviewed the audiogram performed on behalf of Dr. Dinesman and calculated that appellant had a 31 percent binaural hearing loss. He noted that appellant retired in 1989 and opined that noise exposure did not progress after the exposure ceases and, therefore, there was some other cause that resulted in the worsening of appellant's hearing loss. Dr. Dinesman noted that whatever the cause of the hearing loss, there was no medical evidence to suggest that it is related to the federal employment which ended in 1989. Dr. Meador concluded that no additional hearing loss schedule award was due because any hearing loss after June 15, 1993 would not be the result of federal job-noise exposure. On October 23, 2001 the Office denied appellant's claim and noted that the medical evidence failed to establish that appellant's increased hearing loss was due to work factors since his employment ceased in 1989. On August 23, 2002 he again requested reconsideration and did not submit additional medical evidence and in a decision dated September 19, 2002 the Office denied reconsideration of the claim.

stated that appellant had noise-induced hearing loss after working for the employing establishment, during which time he was exposed to high levels of hazardous noise and again recommended a hearing aid.

By letter dated August 25, 2004, the Office referred appellant to Dr. William C. Smith, a Board-certified otolaryngologist, for otologic examination and audiological evaluation. The Office provided him with a statement of accepted facts, available exposure information and copies of all medical reports and audiograms.

Dr. Smith performed an otologic evaluation of appellant on September 13, 2004 and audiometric testing was conducted on the doctor's behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 40, 40, 75 and 100 decibels; left ear 40, 35, 75 and 90 decibels. Dr. Smith determined that in accordance with the A.M.A., *Guides*, appellant had a 53.5 percent binaural hearing impairment. He noted that he sustained bilateral severe high frequency sensorineural hearing loss related to "in part or all," due to the noise exposure encountered in appellant's federal employment. Dr. Smith opined that the hearing loss noted was by far in excess of that indicated by presbycusis alone as appellant had a history of marked noise exposure during his employment, despite the fact that his employment ended in 1989. He opined that the workplace exposure was sufficient as to intensity and duration to have caused, "at least in part," the current hearing loss.

On October 8, 2004 an Office medical adviser reviewed Dr. Smith's report and the audiometric test of September 13, 2004 performed on the physician's behalf. The medical adviser determined that in accordance with the A.M.A., *Guides* appellant had a 53 percent binaural hearing loss based on the audiogram dated September 13, 2004 performed on behalf of Dr. Smith. He noted that the noise exposure on the job was deemed sufficient to implicate it as a contributing factor to appellant's hearing loss. The medical adviser further noted that he ceased employment on November 3, 1989 and received a 19 percent schedule award for binaural hearing loss on June 15, 1993. He advised that he concurred with the report of the prior Office medical adviser, Dr. R. Meador, a Board-certified otolaryngologist, dated October 4, 2001, who noted that appellant had no federal job-related noise exposure since November 3, 1989, when he retired from the government. He further opined that whatever the cause of the hearing loss would be, there was no medical evidence to suggest that it is related to the federal employment which ended in 1989.

By a decision dated October 20, 2004, the Office denied appellant's claim for an increase in impairment for binaural hearing loss on the grounds that the evidence of record does not establish that he was entitled to an increase in impairment because the additional impairment was not related to the work factors prior to the cessation of federal employment on November 3, 1989.

## LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act<sup>4</sup> and its implementing regulation<sup>5</sup> set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>6</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>7</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged.<sup>8</sup> Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.<sup>9</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>10</sup> The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.<sup>11</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>12</sup>

The Board has long recognized that, if a claimant's employment-related hearing loss worsens in the future, he or she may apply for an additional schedule award for any increased permanent impairment. Furthermore, in hearing loss claims, a claim for an additional schedule award based on an additional period of exposure constitutes a new claim. The Board has recognized that a claimant may be entitled to an award for an increased hearing loss, even after exposure to hazardous noise has ceased, if causal relationship is supported by the medical evidence of record. In this latter instance, the request for an increased schedule award is not deemed a new claim.<sup>13</sup>

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<sup>4</sup> 5 U.S.C. § 8107.

<sup>5</sup> 20 C.F.R. § 10.404 (1999).

<sup>6</sup> *Id.*

<sup>7</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

<sup>13</sup> *Paul Fierstein*, 51 ECAB 381 (2000).

Causal relationship is a medical issue that can be established only by medical evidence.<sup>14</sup> The Board notes that the fact that a condition manifests itself or worsens during a period of employment does not raise an inference of an employment relationship.<sup>15</sup>

### ANALYSIS

The Board notes that in a decision dated June 15, 1993 the Office properly granted appellant a schedule award for a 19 percent binaural hearing loss according to the standards of the A.M.A., *Guides* based on the report of the audiogram ordered by Dr. Krueger on January 12, 1993.<sup>16</sup> The Board notes that the federal employment noise exposure ended in 1989 when appellant retired.

An Office medical adviser applied the Office's standardized procedures to the September 13, 2004 audiogram performed on behalf of Dr. Smith on September 13, 2004. While the calculation appears to provide a basis for a greater schedule award of 53 percent binaural hearing loss appellant has not submitted sufficient rationalized medical evidence to support his claim for compensation based on an increased schedule award.<sup>17</sup> The Board has carefully reviewed the medical opinion evidence and finds that Dr. Smith did not provide a reasoned medical opinion on causal relationship from which to conclude that appellant sustained additional hearing loss since the date of his last noise exposure in 1989 that was attributable to his accepted, work-related bilateral hearing condition. Reports from Dr. Krueger dated October 28, 2002 to January 31, 2003 concluded that appellant's hearing loss had increased since his retirement and recommended that he wear a hearing aid. He further noted in his report dated January 6, 2003, that appellant had evidence of benign positional vertigo and progressive noise-induced hearing impairment, for which he recommended binaural amplification. However, none of the reports from Dr. Krueger provide a rationalized medical opinion causally relating appellant's additional hearing loss since his retirement in 1989 to his accepted work-related bilateral hearing condition.<sup>18</sup>

On August 25, 2004 the Office referred appellant to Dr. Smith for an otologic examination and audiological evaluation and who noted in a report dated September 13, 2004, that in accordance with the A.M.A. *Guides* appellant sustained a 53.5 percent binaural hearing impairment. He opined that the hearing loss noted was by far in excess of that indicated by presbycusis alone as appellant has a history of marked noise exposure during his employment, despite the fact that his employment ended in 1989. The report from Dr. Smith finds an increase in his hearing loss attributable to his employment exposure, but the physician's opinion on the

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<sup>14</sup> *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

<sup>15</sup> *Paul D. Weiss*, 36 ECAB 720 (1985); *Hugh C. Dalton*, 36 ECAB 462 (1985).

<sup>16</sup> *Supra* note 2.

<sup>17</sup> A medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451 (2000).

<sup>18</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

cause of the increased loss is equivocal at best.<sup>19</sup> Dr. Smith speculates that appellant's increased hearing loss is due "in part or all" to his work-related noise exposure, but he did not specifically discuss whether the employment-related portion of the hearing loss would be in excess of the 19 percent awarded in 1993. He does not attempt to explain how any amount of hearing loss greater than 19 percent would be attributed to appellant's work exposure and what percentage would be due to presbycusis. Dr. Smith makes no affirmative, reasoned statement that appellant has increased hearing loss due to his work-related hearing condition greater than the 19 percent already awarded. The Board finds that, although Dr. Smith provided some support for causal relationship, he did not provide a rationalized opinion regarding the causal relationship between appellant's additional hearing loss after 1993 and the medical process by which employment-related noise that ceased in 1989 would have continued to cause or contribute to hearing loss in excess of the 19 percent previously awarded.

The Board notes that the Office medical adviser explained that noise-related hearing loss stopped when the exposure to the hazardous noise ceases unless causal relationship is supported by the medical evidence of record. The medical adviser determined that in accordance with the A.M.A., *Guides* appellant had a 53 percent binaural hearing loss based on the audiogram dated September 13, 2004 performed on behalf of Dr. Smith. He concurred with Dr. Meador, a prior Office medical adviser, who in a report dated October 4, 2001, opined that noise exposure did not progress after the exposure ceases; therefore, there was some other cause that has resulted in the worsening of appellant's hearing loss. Dr. Smith noted that whatever the cause of the hearing loss would be, there was no medical evidence to suggest that it is related to the federal employment which ended in 1989. The current Office medical examiner opined that any hearing loss after June 15, 1993 would not be the result of federal job noise exposure. While the second opinion physician noted some hearing loss was more than what was expected for presbycusis, the Office previously granted a schedule award for hearing loss in 1993, four years after his employment ended. The medical adviser noted this and found that the work-related hearing loss stopped in 1989 and that appellant was not entitled to any additional schedule award for hearing loss after this time.

Thus, in the absence of reasoned medical opinion evidence to establish that appellant has increased hearing loss causally related to his work injury, the Office properly denied his request for an additional schedule award.

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<sup>19</sup> The Board has held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value. See *Vaheh Mokhtarians*, 51 ECAB 190 (1999).

**CONCLUSION**

The Board finds that appellant is not entitled to an additional schedule award for increased hearing loss causally related to his work- related bilateral hearing loss condition.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 20, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 15, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member